IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 6579 of 2000

Between:

I Venugopal Reddy S/o I Gangi Reddy
R/o SPW Polytechnic TTD EDucational Institution, Tirupathi,
Chittoor District.

..... PETITIONER

AND

1 Tirumal Tirupathi Devasthanam Rep by its Executive Officer
Tirupathi, Chittoor District
2 Commissioner, State Board of Technical Education & Training,
Government of A.P., Hyderabad
3 Smt A Nagamani
SPW Polytechni, TTD Educational Institutions, Tirupathi,
Chittoor District
(Dismissed for default as per Court Order dt.10/9/03 as against R3)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ Order or direction especially one in the nature of Writ of Mandamus declaring that Memo Roc. No. D7/43177/DEO/90 dt. 15/3/2000 rejecting the claim of the petitioner for promotion from the date of promotion of Smt. A. Nagamani the 3rd Respondent herein, as demonstrator as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India; and further declare that the petitioner is entitled to be promoted as demonstrator in the Department of Electronics and Communication Engineering with effect from 1/4/1986 or from the date of Promotion of Smt A Nagamani and pass such other order or orders as this Hon'ble Court may deem fit and proper

Counsel for the Petitioner:MR.M.SURENDER RAO

Counsel for the Respondent No.: GP FOR TECHNICAL EDUCATION

The Court made the following :

ORDER:

This writ petition is filed seeking Mandamus declaring the proceedings Roc.No.D7/43177/DEO/90 dated 15.03.2000 rejecting the claim of the petitioner for promotion to the Post of Demonstrator from the date of promotion of Smt.A.Nagamani as arbitrary, illegal, discriminatory and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to promote the petitioner with effect from 01.04.1986.

It is the case of the petitioner that he joined the service of the first respondent as a Lab Attendant in the Department of Electronics and Communication Engineering in Sri Padmavati Women's' polytechnic, Tirupati. Subsequently, he was promoted as a Lab Mechanic with effect from 07.09.1982. In the meanwhile, he also acquired a Diploma in Electronics. While so, the post of Demonstrator in Electronics and Communication Engineering was created with effect from 01.04.1986. Simultaneously, another post of Demonstrator in Hotel Management, Catering and Food Technology was also created. The petitioner made a representation to the Principal of the college to promote him to the post of Demonstrator, which was created vide G.O.Ms.No. 18 dated 16.01.1986. His representation was forwarded with due recommendation of the Principal to the Executive Officer, TTD, Tirupati. The Principal of the college brought to the notice of the Executive Officer, TTD that the case of the petitioner shall be considered in the light of the resolution of the governing body dated 02.08.1979. Subsequently also, the Principal of the College addressed letters dated 20.05.1986 and 29.06.1987 to the first respondent recommending the case of the petitioner. However, the Management had taken an unreasonable stand that two posts were reserved for Scheduled Caste and Scheduled Tribe candidates respectively, as per the roster points and therefore, those two vacancies were not filled up. Merely on that ground the petitioner was not promoted as a Demonstrator. According to the petitioner, the said contention of the respondents is not correct. If that is so, the appointment of the third respondent Smt. Nagamani as a Demonstrator during the year 1986 in the Hotel Management, Catering and Food Technology also should have been kept unfilled. Therefore, the petitioner was discriminated and the action of the respondents is arbitrary and illegal and he is entitled for promotion as Demonstrator with effect from 01.04.1986 as was done in the case of Smt.A.Nagamani. (This writ petition was dismissed insofar as

the third respondent Smt.A.Nagamani is concerned, for default).

A detailed counter-affidavit has been filed on behalf of the first respondent. It is asserted that in the cadre of Demonstrator in Sri Padmavathi Women's Polytechnic, there were two backlog vacancies as per roster, one for SC (second point) and another for ST (8th point) from the year 1976 and 1981 respectively. Therefore, the representation of the petitioner was not considered immediately. Further one Smt. A.Nagamani, skilled Assistant of Catering and Food Technology Department in SPW polytechnic was temporarily promoted and posted as Demonstrator in the same department on 04.10.1986 in view of the immediate need in the department. This vacancy was also meant for backlog. The said Smt.Nagamani joined as a skilled assistant in Hotel Management, Catering and Food Technology Department on 15.10.1981 and she was promoted as a Demonstrator in the same department with effect from 14.10.1986 against the vacancy existed due to the resignation of Kum.N. Baby Sarojini. However, the petitioner had filed a writ petition before this Court in W.P.No. 5288 of 1989 seeking a direction to consider his case for promotion to the post of Demonstrator in the department of Electronics and Communication Engineering and also to declare the order dated 02.03.1989 wherein two posts of Demonstrator in Commercial and Computer Practice and Electronics and Communication Engineering are said to have been ear-marked for SC & ST backlog categories, as illegal. Pending the writ petition, an interim direction was granted not to fill up the posts by direct recruitment. During the pendency of the writ petition, one vacancy in the cadre of Demonstrator in the department of Electronics and Communication Engineering had arisen consequent on promotion of one Smt.V.Nirmala Kumari from the cadre of Demonstrator to the cadre of Assistant Lecturer. Therefore, the case of the petitioner was considered and he was temporarily promoted as a Demonstrator against the said vacancy, vide proceedings dated 06.03.1991. Accordingly, the said writ petition was withdrawn by the petitioner and as such it was dismissed as withdrawn on 26.03.1991. He joined as a demonstrator on 07.10.1981. Therefore, the claim of the petitioner that he ought to have been promoted to the post of Demonstrator from the month of October, 1986 on par with one A.Nagamani does not arise. The writ petition is devoid of merits and the same is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material available on record.

At the outset, I am of the opinion that the petitioner has not made out any case for granting the relief as sought in this writ petition. Admittedly, the second and eighth points in the roster in the post of Demonstrator were reserved for SC & ST categories and they are all backlog vacancies. Therefore, naturally the case of the petitioner could not have been considered for appointment against those vacancies. In fact, the petitioner filed a writ petition before this Court when those two vacancies are sought to be filled up by an open notification. However, in view of the fact that a vacancy had arisen in the department of Electronics and Communication Engineering, the case of the petitioner was taken up and his promotion was considered from 06.03.1991. Merely because one Smt.A.Nagamani was promoted as Demonstrator in the department of Hotel Management, Catering and Food Technology in view of the roster under urgency, that itself does not mean that the case of the petitioner also ought to have been considered on par with the said Smt.A.Nagamani. Even assuming that some vacancy had arisen on 01.04.1986 and the petitioner was fully qualified and eligible to hold the same, that itself does not entitle the petitioner for promotion with effect from 01.04.1986. Even in a given vacancy unless and until all the people entitled for are considered and promoted, nobody can claim promotion from a particular date stating that the vacancy had arisen on that date and therefore, he/she should be promoted with effect from the said date. The comparison made by the petitioner against one Smt.A.Nagamani has no relevance to the facts of this case. Admittedly, the petitioner was not officiating as a Demonstrator from October, 1986 onwards so as to direct the respondents to consider the case of the petitioner for being regularized from October, 1986 in the post of Demonstrator. Neither there is any documentary evidence nor any assertion by the petitioner in the affidavit filed in support of this writ petition, to that effect. Under those circumstances, the order impugned does not suffer from any infirmity calling for interference of this Court under Article 226 of the Constitution of India.

The writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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07.07.2005

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To

1 The Executive Officer, Tirumal Tirupathi Devasthanam Tirupathi, Chittoor District
2 The Commissioner, State Board of Technical Education & Training, Government of A.P., Hyderabad
3 Two C.Cs to the G.P., for Technical Education, High Court Buildings, Hyderabad. (OUT).

4 2 CD copies

5 1 CC to MR.SURENDER RAO